

SEP 14 2006

Appl. No. 10/817,255  
Amtd. dated September 14, 2006  
Reply to Office Action of June 16, 2006  
Attorney Docket 17210

**REMARKS/ARGUMENTS**

Claims 1-3 and 5-9 are currently pending for examination. Claim 9 has been added as of this amendment. Claim 4 is cancelled as of this amendment. Claims 1-3, 5-6, and 8 are presently amended. No new matter has been added.

**Objection of Claims 2 and 8**

Claims 2 and 8 have been objected due to minor informalities indicated by the Examiner. The corrections suggested by the Examiner have been made. Withdrawal of the objection is respectfully requested.

**Rejection of Claims 1-8 under 35 U.S.C. 112**

Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-3, 5-6, and 8 have been amended to add clarity as well as account for other deficiencies as indicated by the examiner. Claim 4 has been cancelled. As such, Claims 1-3 and 5-8 as amended are believed to presently particularly point out and distinctly claim the subject matter which applicant regards as the invention. Withdrawal of the rejection is respectfully requested.

**Rejection of Claims 1-5 and 7 under 35 U.S.C. 102**

Claims 1-5 and 7 stand rejected under 35 U.S.C. 102(b) as being anticipated by Severeid (US 5,333,693 A).

In order for a reference to be an anticipatory reference, the reference must disclose each and every element of the claimed invention. It is respectfully submitted that Severeid does not teach or suggest all the elements recited in the claims.

Severeid appears to teach a tractor mounted implement for stump removal and makes no mention of bale stacking or hauling. Conversely, the present invention, particularly as claimed in Claim 1, describes an improvement to a bale wagon, a piece of agricultural equipment well known by those in the art as evidenced by the listing of bale wagon related patents listed in the specification of this application.

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Severeid fails to disclose a "bale wagon comprising a load bed, a crossbar movable along the load bed, and tines attached to the movable crossbar" which forms the basis for the improvement described in Claim 1. Additionally, Severeid fails to disclose an improvement to such a bale wagon comprising "attaching the tines to the movable crossbar such that the tines are pivotally adjustable to form a tine tilt angle measured between an essentially vertical surface of the tines and the load bed" as further claimed in Claim 1.

For at least these reasons, Claim 1 should be allowed over the cited art. Claims 2, 3 and 5-7 depend from Claim 1 and should be allowed over the cited art for at least the same reason as Claim 1. Withdrawal of the rejection is respectfully requested.

**Rejection of Claim 8 under 35 U.S.C. 102**

Claim 8 stands rejected under 35 U.S.C. 102(b) as being anticipated by Butler (US 4,305,690 A).

In order for a reference to be an anticipatory reference, the reference must disclose each and every element of the claimed invention. It is respectfully submitted that Butler does not teach or suggest all the elements recited in the claims.

Butler appears to teach a bale wagon for picking up bales of crop material from a field and forming them into a generally symmetrical pyramidal stack of bales on the bale wagon for deposit at a desired location. Figure 1 plainly shows a side view of the bale wagon with a pyramidal stack on board the wagon. This is clearly not what is taught by the present invention as claimed in Claim 8.

Conversely, Claim 8 claims a "method for unloading tiers of stacked bales from a loaded bale wagon to form a larger stack of bales, said method comprising, unloading a first load of bales to lean at an angle corresponding to a first tilt angle, and then, against said first load of bales, unloading a second load of bales from the same wagon at a different tilt angle selected by pivotally adjusting the tines on said bale wagon." Simply put, claims 8 describes a method of forming a large stack of bales from smaller loads of bales in which a first load is unloaded and then a second load is unloaded at a different tilt angle from that of the first load. Clearly, the cited art of Butler fails to teach or suggest any such method but instead teaches only a method for creating and unloading a singly pyramidal stack.

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For at least these reasons, Claim 8 as presented should be allowed over the cited art. Withdrawal of the rejection is respectfully requested.

**Rejection of Claim 6 under 35 U.S.C. 103(a)**

Claim 6 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Severeid.

In order to establish a *prima facie* case of obviousness, three criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the applied reference must teach or suggest all the claim limitations (See MPEP §2143).

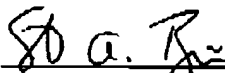
It is respectfully submitted that the Office Action does not meet the criteria for establishing a *prima facie* case of obviousness. Claim 6 depends from Claim 1, which as previously discussed is believed to be allowable over the cited art as the cited art fails to teach or suggest all of the cited limitations of the claim. Additionally, as previously mentioned, Severeid teaches a tractor mounted implement for stump removal and makes no mention of bale stacking or hauling thus giving no suggestion or motivation to one skilled in the art to apply any potential teachings to a bale wagon.

For at least these reasons, Claim 6 should be allowed over the cited art. Withdrawal of the rejection is respectfully requested.

No fee is believed due in connection with this Amendment. However, if the Commissioner determines that a fee is due, he is authorized to charge the fee to Deposit Account No. 14-0780.

In view of the above remarks, it is believed that the application is in condition for allowance. Accordingly, an early Notice of Allowance is respectfully requested.

Respectfully submitted,

  
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